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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,422	08/30/2000	Jeffrey W. Honeycutt	M122-1332	9935

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EXAMINER

KENNEDY, JENNIFER M

ART UNIT PAPER NUMBER

2812

DATE MAILED: 11/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/651,422

Applicant(s)

HONEYCUTT ET AL.

Examiner

Jennifer M. Kennedy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The after final amendment filed 8/19/2002, has been entered into the case as Paper No. 13. The indicated allowability of claims 9, 10, 13 and 14 is withdrawn in view of the newly discovered reference(s) to Wu et al., Wu, and Ju et al. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wu (U.S. Patent No. 5,915,182).

Wu discloses the method of forming transistor structure, comprising, forming a transistor gate over a substrate, the transistor gate (8) comprising a sidewall which comprises electrically conductive material, forming an electrically insulative material (10, 12) along the electrically conductive material of the transistor gate sidewall, the electrically insulative material comprising at least two different layers having different

chemical compositions form one another; a first (10) of the at least two layers comprising at least one of $\text{Si}_x\text{O}_y\text{N}_z$ and Al_pO_q , wherein p, q, x, y, and z are greater than 0 and less than 10, the second (12) of the at least two layers consisting essentially of silicon and nitrogen, anisotropically etching the electrically insulative material to form a spacer along the transistor gate sidewall, the anisotropically etching comprising etching both of the first and second of the at least two layers; and wherein the first of the at least two layers is between the second of the at least two layers and the transistor gate sidewall (see column 3, lines 20-40).

Wu further discloses the method further comprising implanting a dopant into the substrate and utilizing the spacer to align the dopant during the implant (see column 3, lines 43-54 and Figures 4-5), and wherein the first of the at least two layers consist essentially of $\text{Si}_x\text{O}_y\text{N}_z$ (10).

Claims 9, 10, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu et al. (U.S. Patent No. 6,107,149).

Wu et al. discloses the method of forming transistor structure, comprising, forming a transistor gate over a substrate, the transistor gate (21) comprising a sidewall which comprises electrically conductive material, forming an electrically insulative material (24, 25) along the electrically conductive material of the transistor gate sidewall, the electrically insulative material comprising at least two different layers having different chemical compositions form one another; a first (24) of the at least two layers comprising at least one of $\text{Si}_x\text{O}_y\text{N}_z$ and Al_pO_q , wherein p, q, x, y, and z are greater

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than 0 and less than 10, the second (25) of the at least two layers consisting essentially of silicon and nitrogen, anisotropically etching the electrically insulative material to form a spacer along the transistor gate sidewall, the anisotropically etching comprising etching both of the first and second of the at least two layers; and wherein the first of the at least two layers is between the second of the at least two layers and the transistor gate sidewall (see column 4, line 65 through column 5, line 40).

Wu et al. further discloses the method further comprising implanting a dopant into the substrate and utilizing the spacer to align the dopant during the implant (see column 5, lines 40-59), and wherein the first of the at least two layers consist essentially of $\text{Si}_x\text{O}_y\text{N}_z$ (24).

Claims 9, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ju et al. (U.S. Patent No. 6,232,166).

Ju et al. discloses the method of forming transistor structure, comprising, forming a transistor gate over a substrate, the transistor gate (30) comprising a sidewall which comprises electrically conductive material, forming an electrically insulative material (36, 39) along the electrically conductive material of the transistor gate sidewall, the electrically insulative material comprising at least two different layers having different chemical compositions from one another; a first (36) of the at least two layers comprising at least one of $\text{Si}_x\text{O}_y\text{N}_z$ and Al_pO_q , wherein p, q, x, y, and z are greater than 0 and less than 10, the second (39) of the at least two layers consisting essentially of silicon and nitrogen, anisotropically etching the electrically insulative material to form a spacer

along the transistor gate sidewall, the anisotropically etching comprising etching both of the first and second of the at least two layers; and wherein the first of the at least two layers is between the second of the at least two layers and the transistor gate sidewall (see column 6, lines 7-59).

Ju et al. further discloses the method further comprising implanting a dopant into the substrate and utilizing the spacer to align the dopant during the implant (see column 6, line 60-Column 70, line 6), and wherein the first of the at least two layers consist essentially of $\text{Si}_x\text{O}_y\text{N}_z$ (36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (U.S. Patent No. 5,915,182) in view of Tsukamoto et al. (U.S. Patent No. 5,700,349).

Wu discloses the method substantially as claimed, and rejected above, but do not disclose the method wherein the first of the at least two layers is Al_pO_q . Tsukamoto et al. disclose the method wherein an a spacer made of insulative material can be formed of silicon nitride, silicon oxynitride or aluminum oxide (see column 4, lines 40-50 and column 9, lines 24-34) all with the same basic desired effects. Thus, Tsukamoto et al. teaches that silicon oxynitride and aluminum oxide are functional equivalents in

forming insulative spacers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the first spacer of Wu with aluminum oxide rather than silicon oxynitride since silicon oxynitride and aluminum oxide are recognized as functional equivalents in the art and would result in the same basic desired effects.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. (U.S. Patent No. 6,107,149) in view of Tsukamoto et al. (U.S. Patent No. 5,700,349).

Wu et al. discloses the method substantially as claimed, and rejected above, but do not disclose the method wherein the first of the at least two layers is Al_pO_q . Tsukamoto et al. disclose the method wherein an a spacer made of insulative material can be formed of silicon nitride, silicon oxynitride or aluminum oxide (see column 4, lines 40-50 and column 9, lines 24-34) all with the same basic desired effects. Thus, Tsukamoto et al. teaches that silicon nitride, silicon oxynitride and aluminum oxide are functional equivalents. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the first spacer of Wu et al. with aluminum oxide rather than silicon nitride or silicon oxynitride since silicon nitride, silicon oxynitride and aluminum oxide are recognized as functional equivalents in the art and would result in the same basic desired effects.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ju et al. (U.S. Patent No. 6,232,166) in view of Tsukamoto et al. (U.S. Patent No. 5,700,349).

Ju et al. discloses the method substantially as claimed, and rejected above, but do not disclose the method wherein the first of the at least two layers is Al_pO_q .

Tsukamoto et al. disclose the method wherein an a spacer made of insulative material can be formed of silicon nitride, silicon oxynitride or aluminum oxide (see column 4, lines 40-50 and column 9, lines 24-34) all with the same basic desired effects. Thus, Tsukamoto et al. teaches that silicon nitride, silicon oxynitride and aluminum oxide are functional equivalents. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the first spacer of Ju et al. with aluminum oxide rather than silicon nitride or silicon oxynitride since silicon nitride, silicon oxynitride and aluminum oxide are recognized as functional equivalents in the art and would result in the same basic desired effects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer M. Kennedy whose telephone number is (703) 308-6171. The examiner can normally be reached on Mon.-Fri. 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (703) 308-3325. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



jmk
November 18, 2002

John F. Niebling
Supervisory Patent Examiner
Technology Center 2800